

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order R1-2008-0070

For
Violation of Waste Discharge Requirements
Order Nos. 95-47, R1-2004-0009 and R1-2005-0096 and
State Water Resources Control Board Order No. 2006-0003-DWQ

In the Matter of
Fort Bragg Municipal Improvement District No. 1
Wastewater Treatment Facility
WDID No. 1B84083OMEN

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), has received from the Fort Bragg Municipal Improvement District No. 1 (hereinafter Discharger), a waiver of the right to a public hearing in the matter of civil penalties issued pursuant to Water Code section 13385, subdivisions (a), (h) and (i). The proposed civil penalties issued pursuant to subdivision (a) are for discharges of untreated municipal wastewater that occurred between January 1, 2003 through October 31, 2007 in violation of (1) discharge prohibitions contained in Waste Discharge Requirements (WDRs) Order Nos. 95-47, R1-2004-0009 and R1-2005-0096 and (2) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (GWDRs) as a result of Sanitary Sewer Overflows (SSOs). The proposed civil penalties issued pursuant to subdivisions (h) and (i) are for discharges of municipal effluent occurring during the period from May 14, 2004 through October 31, 2007 in violation of effluent limitations contained in the Discharger's WDRs. Having received a request for the opportunity to implement a Project in lieu of paying a portion of the penalty prescribed, the Regional Water Board finds the following:

1. The Fort Bragg Municipal Improvement District No. 1 (hereinafter Discharger) operates a municipal wastewater treatment facility (WWTF) located in the City of Fort Bragg to collect, treat, and dispose of wastewater generated within the sewerage district. The WWTF is designed to provide secondary treatment, disinfect the wastewater using chlorine, and then discharge the treated effluent to the Pacific Ocean through an ocean outfall. Associated with the WWTF is a sanitary sewer system consisting of 30 miles of gravity pipeline, pressure mains, six pump stations, interceptor lines, collection lines, cleanouts, and manholes.
2. From June 22, 1995 to March 23, 2004, the Discharger's WWTF was regulated by Waste Discharge Requirements (WDRs) Order No. 95-47. On

March 24, 2004, the Regional Water Board adopted WDRs Order No. R1-2004-0009, which became effective on May 13, 2004. On October 12, 2005, the Regional Water Board adopted WDRs Order No. R1-2005-0096 to reflect modifications to Order No. R1-2004-0009. All of these WDRs serve as a National Pollution Discharge Elimination System Permit (NPDES No. CA0023078) under the Federal Clean Water Act.

3. The State Water Resources Control Board adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements (GWDRs) for Wastewater Collection Agencies on May 2, 2006. The Discharger enrolled in the GWDRs on November 3, 2006.
4. During the period from May 14, 2004 through October 31, 2007, the Discharger exceeded effluent limitations four times. One of the exceedances is a serious violation and three are chronic. The mandatory minimum penalty amount for these violations is \$6,000.
5. During the period from January 1, 2003 through October 31, 2007, the Discharger experienced twenty-three prohibited discharges. Thirteen of the violations were SSOs, and ten were other discharge events. The penalty amount assessed for these prohibited discharge violations is \$50,000.
6. On November 16, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0102 (Complaint) assessing a civil liability penalty of \$56,000 for violations described in Findings 4 and 5. The Discharger waived its right to a public hearing and requested to pay the sum of \$20,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the sum of \$35,500 on a Project. The Discharger paid \$10,250 into the CAA on February 4, 2008 and agreed to pay the remainder on or before July 31, 2008.
7. The proposed Project will add an alarm system with leak detection in the secondary containment section of the new Pudding Creek Force Main (3000 lineal feet of 10-inch sewer line) that is being placed on the Pudding Creek bridge span. The alarm system will enhance the overall performance of the force main relocation project and further protect Pudding Creek and beach areas from future leaks. The Discharger's staff will provide supervision of the Project.
8. Government Code section 11415.60, subdivision (a) also gives the Regional Water Board the authority to settle \$35,500 of the civil liability upon the completion of the Project. That section states that an agency may formulate and issue a settlement on any terms the parties determine are appropriate. The Regional Water Board and the Discharger concur that the Discharger's proposal described in Finding 6 is a fair settlement of the ACLC and is in the interest of the public.

9. A duly noticed public hearing on this matter was held before the Regional Water Board on July 24, 2008 in the Regional Water Board Hearing Room at 5550 Skylane Blvd. Suite A, Santa Rosa, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement and the Regional Water Board has considered all comments.
10. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
11. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, pursuant to Water Code section 13385, that:

1. The Discharger shall be assessed a total civil liability of \$56,000. The Discharger shall pay the sum of \$20,500 into the CAA in two installments of \$10,250 each. The Discharger paid the sum of \$10,250 into the CAA on February 4, 2008 and shall pay the remaining sum of \$10,250 into the CAA by July 31, 2008. The Discharger shall spend the remaining sum of \$35,500 toward the completion of the Project as described in Finding 7. Upon the Executive Officer's determination that the Project has been satisfactorily completed, the remaining \$35,500 liability will be suspended. If the final project cost is less than \$35,500, the remaining balance shall be paid to the CAA. The sum of the Project, and the amount paid to the CAA shall at least equal the amount of the full penalty.
2. The Discharger shall submit progress reports to the Regional Water Board describing the planning and construction of the Project according to the following time schedule:

TASK	DUE DATE
Commence Construction.	No later than September 1, 2008 and submit a report by September 15, 2008 describing compliance with this task.
Complete Construction.	No later than November 30, 2008 and submit a compliance report by December 15, 2008. The report shall certify the

	completion of the Project and include a post-project accounting of expenses. The report shall include an overall evaluation of the Project and a judgment as to the potential to meet the stated goals of the Project.
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3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the Project's implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the Project will be completed.
4. Failure to meet the deadlines above, including completing the Project, will result in the Discharger being required to pay the full penalty. Payment of the penalty does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's waste discharge requirements.

Certification

I, Catherine Kuhlman, Executive Officer,
do hereby certify that the foregoing is a full, true,
and correct copy of an Order adopted by the
California Regional Water Quality Control Board,
North Coast Region on July 24, 2008.

Catherine Kuhlman
Executive Officer